IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 19798 of 2004

Between:

Allluri Venkata Satya Surya Rama Raju,

S/o. Venkata Ramana Raju,
R/o. D.No. 6-16-4/1, Kothapet, Tuni,

East Godavari District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Secretary,

Commercial Taxes Department,
Secretariat, Hyderabad.
2 Deputy Commisioner of Commercial Taxes,

East Godavari District, Kakinada.
3 Deputy Commercial Tax Officer, Tuni,

East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the action of the Respondents in taking away the movables in his property bearing old D.No.5-29-671 and New Door No. 6-16-4/1, Kothapet and seeking to conduct

public auction of the same as illegal, arbitrary, in violation of the orders of injunction in I.A.No.1374/1998 in O.S.No.242/1998 on the file of the Court of the Principal Senior Civil Judge, Kakinada dt. 19-1-1999 etc., and grant such other just and consequential relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.V.L.N.SARMA

Counsel for the Respondents: MR K.RAJI REDDY (SPL. SC FOR COMMERCIAL TAX

The Court made the following :

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ORDER: (PER BRSR, J)

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We have heard the learned counsel for the petitioner at great length and as well as the learned Special Standing counsel for Commercial Taxes appearing on behalf of the Department.

Notwithstanding any disputed questions of facts raised in this writ petition and the objections raised by the petitioner as against the distraint order impugned in this writ petition, we find no merit in any one of them. However, learned counsel for the petitioner submits that no useful purpose would be served by selling the seized articles by way of a public auction and liberty may be given to the petitioner to pay the amounts equivalent to the value of the movable property already seized by the respondents and to release the seized articles in favour of the petitioner.

We are inclined to accept the suggestion/submission made by the learned counsel for the petitioner and we accordingly direct the respondents to value the seized movable goods/articles and permit the petitioner to deposit the amounts in terms of the valuation made by the respondents and upon such deposit, release the goods in favour of the petitioner. The deposit of the money with the respondents shall be subject to the decision as to the determination, if any, to be made in any of the proceedings to be initiated against the petitioner or the defaulter in respect of the very liability of payment of arrears of taxes or the interest of the third party. There shall be an order accordingly and the writ petition is disposed of. No order as to

costs.

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B. SUDERSHAN REDDY, J

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T.CH. SURYA RAO, J

Date:01-12-2004.

VS/grr

To

1 The Secretary, Government of Andhra Pradesh,

Commercial Taxes Department,
Secretariat, Hyderabad.

2 Deputy Commisioner of Commercial Taxes,

East Godavari District, Kakinada.

3 Deputy Commercial Tax Officer, Tuni,

East Godavari District.

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